

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7133

BILL NUMBER: HB 1951

DATE PREPARED: May 2, 2001

BILL AMENDED: Apr 29, 2001

SUBJECT: Board of Pharmacy

FISCAL ANALYST: Kathy Norris

PHONE NUMBER: 234-1360

FUNDS AFFECTED: X

X

**GENERAL
DEDICATED
FEDERAL**

IMPACT: State & Local

Summary of Legislation: (CCR Amended) This bill adds "Rx Only" as a federal legend for which prescriptions may not be refilled without written or oral authorization of a licensed practitioner. The bill requires a prescription to contain the date of issue. The bill also provides that a prescription is valid for not longer than one year after the original date of issue (instead of the original date of filling). It adds gamma-hydroxybutyric acid (GHB) as a Schedule I depressant. This bill also adds any drug product containing gamma-hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under the federal Food, Drug and Cosmetic Act, as a Schedule III depressant. The bill adds Zolpidem (Ambien) as a Schedule IV depressant. It also amends the requirements for a respiratory therapist student permit.

Effective Date: (CCR Amended) Upon Passage; July 1, 2001.

Explanation of State Expenditures: (Revised) The bill requires the Respiratory Care Committee of the Medical Licensing Board to develop an application and issue a respiratory therapy student permit. The cost of this provision would be dependent upon administrative decisions made by the Medical Licensing Board and the number of students eligible to hold the permit. The Board is to set a fee for the student permits. If a fee is not established in rule, the statute provides that the permit fee is \$25.

Penalty Provisions: Schedule I, III and IV depressants are considered as controlled substances according to IC 35-48-2-4. There are several penalties involved with the illegal selling, possession, and use of these substances. More severe penalties exist for extenuating circumstances surrounding the violating activity with a controlled substance, including sale to a minor, sale within 1000 feet of school property, and sale on a school bus. IC 35-48-4 lists the penalties for violations.

Offense	Penalty
Manufacture/delivery or finances manufacture/delivery of a Class I, II, III controlled substance (adulterated or pure)	Class B Felony Class A Felony if delivered to a minor three years junior of person delivering controlled substance, delivered on a school bus, within 1000 yards of school property, in a public park, or family housing complex.
Manufacture/delivery or finances manufacture/delivery of a Class IV controlled substance (adulterated or pure)	Class C Felony Class B Felony if delivered to a minor three years junior of person delivering controlled substance, delivered on a school bus, within 1000 yards of school property, in a public park, or family housing complex.

A Class A felony is punishable by a prison term ranging from 20 to 50 years depending upon mitigating and aggravating circumstances. A Class B felony is punishable by a prison term ranging from six to twenty years depending upon mitigating and aggravating circumstances. A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,700 in FY 1999. Individual facility expenditures ranged from \$14,936 to \$37,807. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class A felony offenders is approximately eight years, four months.

Explanation of State Revenues: (Revised) Requiring a student permit for respiratory therapists would have a small impact on revenue. Any impact would depend on the number of students applying for a student permit for respiratory therapy in Indiana.

Penalty Provisions: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A, B, or C felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

In addition, persons convicted of a drug-related offense may also be liable for a drug abuse, prosecution, interdiction and correction fee ranging between \$200 and \$1,000. The revenue collected from this fee is deposited in the State User Fee Fund and distributed to state and local programs.

Explanation of Local Expenditures: (Revised) If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day to house an inmate in a county jail is approximately \$44.

Explanation of Local Revenues: (Revised) If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law

enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

In addition, if a person is convicted of a drug-related offense, a sentencing court may assess a marijuana eradication fee of not more than \$300, if the county has established a Weed Control Board. The court may also assess an alcohol and drug services program fee of not more than \$300 if a local government has established an alcohol and drug services program. Revenue collected from the marijuana eradication fee is deposited into the county user fee fund. Revenue collected from the alcohol and drug services program fee is deposited in the county or city or town user fee fund.

State Agencies Affected: Health Professions Bureau, Indiana Board of Pharmacy, Medical Licensing Board, and the Department of Correction.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: Health Professions Bureau; Indiana Sheriffs Association; Department of Correction.